

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ROBERT WINBURN,

Plaintiff,

Case No. 18-12807

Honorable Thomas L. Ludington

v.

HERB PRICE,

Defendant.

ORDER DISMISSING CASE

On September 10, 2018, Plaintiff Robert Winburn filed a complaint pursuant to 42 U.S.C. §1983 against Defendant H. Price, a warden at the Cotton Correctional Facility in Jackson, Michigan. Pl.'s Compl., ECF No. 1, PageID.1. Plaintiff is representing himself *pro se* and is both a prisoner serving a current sentence and a pretrial detainee in a pending case in Washtenaw County Circuit Court. Plaintiff alleges that Defendant has failed to provide him access to two DVDs containing evidence necessary for Plaintiff to defend himself in his ongoing criminal case in Washtenaw County.

On September 10, 2018, Plaintiff filed an application to proceed *in forma pauperis*. ECF No. 2, PageID.15. Judge Whalen “reviewed plaintiff’s financial affidavit, certified account statement or its equivalent, and signed authorization to withdraw funds” and granted the motion. ECF No. 4.

On February 15, 2019, Defendant Price moved to revoke Plaintiff’s *in forma pauperis* status under 28 U.S.C. §1915(g), which provides, “In no event shall a prisoner bring a civil action or appeal a judgment in a civil action ... if the prisoner has, on 3 or more prior occasions, while incarcerated ... brought an action or appeal in a court of the United States that was dismissed on

the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted.” ECF No. 16, PageID.199. On September 3, 2019, it was determined that Plaintiff had brought at least three previous actions that were dismissed on grounds of being “frivolous, malicious, or fail[ing] to state a claim upon which relief may be granted.” Plaintiff’s *in forma pauperis* status was revoked and he was ordered to “pay to the clerk of this Court on or before September 30, 2019 the entire filing fee of \$350 that was due when he filed his complaint. Failure to do so may result in dismissal of this action.” ECF No. 22 at PageID.292 (citation omitted). Plaintiff did not pay the filing fee. Pursuant to 28 U.S.C. §1915(g), his case will be dismissed.

Accordingly, it is **ORDERED** that Plaintiff’s complaint, ECF No. 1, is **DISMISSED**.

Dated: October 15, 2019

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney of record herein by electronic means and to **Robert Winburn** #222196, G. ROBERT COTTON CORRECTIONAL FACILITY, 3500 N. ELM ROAD, JACKSON, MI 49201 by first class U.S. mail on October 15, 2019.

s/Kelly Winslow
KELLY WINSLOW, Case Manager